

**REMARKS**

Claims 1-19, 27 and 30 remain in this application. Claims 26, 28 and 29 have been canceled. Claims 1, 2, 10, 11, 13, 15 and 18 have been amended.

Claims 1, 2, 10, 11, 13, 15 and 18 have been amended to add the proper antecedent basis for the “wings”.

The abstract of the disclosure was objected to by the examiner because it included brackets. As amended the brackets have been removed.

Reconsideration of this application is requested. Claims 1-14 were rejected under 35 U.S.C.112 second paragraph, as being indefinite for failing to particularly pointing out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1 line 12, the phrase, “the wings” lacked proper antecedent basis. As amended claim 1 now contains the phrase “wing extension”. Claim 2, 10, 11, 13, 15 and 18 have been amended to replace the word “wings“ with “wing extension/s” where applicable.

Claims 1, 3, 4, 6-8 and 27 were rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-4 and 8-11 of U.S. Patent No. 6,673,413 B1.

Applicant is filing with this amendment a Terminal Disclaimer To Obviate A Double Patenting Rejection Over A ‘Prior’ Patent to overcome this rejection.

Claims 26, 28 and 29 were rejected under 35 U.S.C.102(b) as being anticipated by UK Patent No. 2060469 issued to Ward. This rejection is overcome by the cancellation of claims 26, 28 and 29 with this amendment.

Claims 1-4, 6-8, 10, 11, 13-19 and 30 were rejected under 35 U.S.C.103(a) as being unpatentable over Ward in UK Patent No. 2060469 in view of Feltman in U.S. Patent No. 5,827,461. This rejection is respectfully traversed

In relation to the base claim 1, close examination of Ward's patent discloses a process for the **solid phase deformation** of a workpiece of an orientable thermoplastic polymer. All of the patents examples in his specification are described using a solid phase thermoplastic that has been slow cooled after extrusion or immersed in a water bath prior to drawing through a die with no other practice described anywhere particularly in the claims. Applicant on the other hand claims in claim 1 "*-- a thermoplastic monofilament having an oriented characteristic produced by stretching a preheated monofilament through a heated volume reducing die,--*". Ward is completely silent regarding any preheating of his thermoplastic polymer and this step of preheating is particularly important in the orienting process in combination of the heated die basically at the same temperatures as it permits the material to be drawn through the die with only sufficient pressure to maintain the requisite diameter without a further reduction in size. (page 4 lines 23-26 of the applicant's specification).

Ward is not attempting to produce a composite polymeric twist tie and is not concerned with its ability to pass a "dead fold test". This test exhibits the specimen materials memory when a sample is folded 180 degrees, approximately in half, with the remaining portions essentially parallel with each other. After relaxing for a period of at least three minutes at the prevailing ambient temperature, the angle of relaxation is obtained by measuring the included angle between the parallel portions. Preferably the a tie wrap dead fold angle should be no greater than 10 degrees when folded contiguously engaging, in half, and, when relaxed retaining this 10 degree angle for a minimum period of three minutes. The combination of preheating, grippable wing extensions and coating achieve the prerequisite functional characteristics in the instant invention and as Ward has no such preheating the limitation of the instant application prevails.

The examiner indicated that Ward had no teachings regarding grippable wing extensions however it would have been obvious to look toward Feltman in U.S. Patent No. 5,827,461 for this teaching to facilitate better gripping of the article. Feltman does

indeed disclose a twist tie with wing portions 24 which are basically required to make a twist tie operational however contrary to the assertion of the examiner that the references are combinable for they relate to twist tie articles. Ward makes no reference anywhere in his specification or claims as to the use of his oriented thermoplastics as a twist tie as a matter of fact Ward teaches "*Oriented thermoplastics having enhanced properties such as Young's modulus, resistance to creep, resistance to gas transport are prepared by drawing the thermoplastics in the solid phase through a die so that the plastic strain is progressively increased during startup.*" [page 1 (67)]. Since Ward is completely silent regarding the addition of wing type portions or wing extension he would have no reason to look toward Feltman for such a combination. There can be no *prima facie* obviousness merely because the prior art can be modified to the claimed form without a suggestion of its desirability which Ward obviously lacks.

In regard to claim 2 for the same reasons discussed previously the same argument is presented for this claim as it depends upon the base claim. Further applicant claims that the wings are "**integral with the coating**" where Feltman teaches his wings are not coated at all.

Relative to claims 13 and 14 for the same reasons discussed previously the same argument is presented for this claim as they depend upon the base claim. The overall width of a twist tie is governed by the tying equipment already in service therefore if it is a twist tie used in this country it would fall within the parameters claimed. The thickness of the wings is another matter and the instant invention is much thinner than the prior art.

Concerning claims 6, 15 and 16 for the same reasons discussed previously the same argument is presented for this claim as they depend upon the base claim. The dead fold properties are a measure of its ability to stay twisted with Feldman not claiming any limitations and applicants claim 6 and 16 narrowing the invention to no greater than 10 degrees.

In relation to claims 7 and 8 for the same reasons discussed previously the same argument is presented for this claim as they depend upon the base claim. Applicant

acknowledges that Feldman used high density polyethylene but not in combination with the limitations of the base claim.

In relation to claims 3 and 4 for the same reasons discussed previously the same argument is presented for this claim as they depend upon the base claim. Applicant acknowledges that Feldman used dissimilar polymers but not in combination with the limitations of the base claim.

Concerning claim 18 the same reasons discussed previously the same argument is presented for this claim as it depends upon the base claim. Applicant acknowledges that Feldman used coextrusion but not necessarily coating per se and not in combination with the limitations of the base claim.

Relative to claims 10, 11, 17, 19 and 30 for the same reasons discussed previously the same argument is presented for this claim as they depend upon the base claim. Applicant acknowledges that Feldman used dissimilar polymers for his coextruded article but he taught they are preferably constructed from the same material. Applicant on the other hand claims a specific material that limits the claims to a much greater extent than Feldman, actually enough to define in structure and also it is to be considered that the claims are taken in combination with the limitations of the base claim.

Accordingly the subject matter of claims 1-4, 6-8, 10, 11, 13-19 and 30 are not rendered obvious by Ward in UK. Patent No. 2060469 in view of Feltman in U.S. Patent No. 5,827,461.

Claims 9-12, 17 and 19 were rejected under 35 U.S.C.103(a) as being unpatentable over Ward in UK. Patent No. 2060469 in view of Kincel et al. in U.S. Patent No. 6,673,413 B1. This rejection is respectfully traversed

For the same reasons discussed previously the claims are no longer obvious over Ward in UK. Patent No. 2060469 and the patent of Kincel et al. has had filed with this amendment a Terminal Disclaimer To Obviate A Double Patenting Rejection Over A 'Prior" Patent therefore overcoming this rejection.

Claim 27 was rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-4 and 8-11 of U.S. Patent No. 6,673,413 B1. Applicant is filing with this amendment a Terminal Disclaimer To Obviate A Double Patenting Rejection Over A 'Prior' Patent thereby overcoming this rejection. Since there is no other rejection claim 27 is now in condition of allowance.

Accordingly, the rejections under 35 U.S.C.102, 103 and 112 are deemed overcome by applicant's amendment and remarks.

Withdrawal of the rejection is respectfully requested and allowance of the instant application is solicited.

A Terminal Disclaimer To Obviate A Double Patenting Rejection Over A 'Prior' Patent, form PTO/SB/22 is enclose herewith along with a check in the amount of \$65.00 to cover the fee required.

Respectfully Submitted,



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